

MINUTES
TOWN OF MILLIKEN
TOWN BOARD OF TRUSTEES
Milliken Community Complex
July 12, 2006
7:00 p.m.

Board Trustees present: Mayor Linda Measner, Mayor Pro Tem Janie Lichtfuss, Trustees Gary Frank, Milt Tokunaga, Ted Chavez, Julie Cozad and Peggy Wakeman.

Staff present: Town Attorney Bruce Fickel, Police Chief and Co-Interim Administrator Jim Burack, Public Works Director and Co-Interim Administrator Mike Woodruff, Deputy Town Clerk Jessi Day, Finance Director Diana Vasquez, Town Planner Danna Ortiz, and Senior Coordinator Lois Ann Onorato.

PUBLIC HEARING

Animal Variance Request by Candice White

Mayor Measner opened the public hearing at 7:08 p.m. Chief Jim Burack informed the Board that Candice White and Ian Eldredge, residents at 281 East Hawthorne, are applying for a variance to be allowed to own five dogs. Ms. White owns two of the dogs, one is Mr. Eldridge's, and the remaining two are their roommate, Wes Sanford.

Mayor Pro Tem Lichtfuss asked how long Ms. White has lived in the house, and Ms. White said she has lived there a couple of months. Mayor Pro Tem Lichtfuss then asked if the applicants have received any complaints, and Ms. White indicated that they have not. Ms. White went on to explain that she and her roommates work hard to keep the yard clean, to keep the dogs from barking and to keep their fence in repair. She also informed the Board that she obtained her neighbors' signatures indicating they have no problem with Ms. White and Mr. Eldridge having five dogs.

Trustee Cozad informed the applicants that the Town received several letters opposing the variance application. She then asked the applicants if the situation will be temporary. Ms. White said yes; she does not have the means to move to her own place of residence at this time, but plans to in the future. Ms. White added that not all five dogs are allowed outside at once, and any barking is taken care of immediately. Mr. Eldredge also informed the Board that someone is at the house at all times. The dogs are never left alone.

Attorney Fickel stated that the current ordinance allows latitude to monitor the situation. Mayor Pro Tem Lichtfuss voiced her concern with setting a precedent by approving every variance request for dogs that comes before the Board. Trustee Cozad also commented that the ordinance sets limits because living in city limits includes close

quarters. Trustee Wakeman asked the applicants if they rent, and Mr. Eldredge informed the Board that he is the homeowner.

Mayor Measner asked if anyone in the audience wished to address the Board, but there being no one, she closed the public hearing at 7:16 p.m.

REGULAR MEETING

Mayor Measner called the regular meeting to order at 7:17 p.m.

PLEDGE OF ALLEGIANCE

Mayor Measner led the audience in the Pledge of Allegiance.

ADDITIONS/CHANGES TO THE AGENDA

None.

AUDIENCES WITH INDIVIDUALS

Dave Bernhardt, resident at 23809 WCR 25 thanked the Board on behalf of the Milliken Business Association for their support of Milliken Madness Day. He informed everyone that the event will include a tour of a Union Pacific train engine, kids' games and prizes donated by local businesses, a water fight between the Milliken and Johnstown fire departments, a petting zoo, an open house at the Milliken Police Department, and a street dance. He invited all to come to the event.

REPORTS FROM BOARD MEMBERS REGARDING OTHER MEETINGS

Trustee Cozad reported that she and Trustee Wakeman attended the MPO meeting which was held at Milliken Town Hall. Highlights of the meeting included a report that ozone levels are high (no violations have occurred), and a Larimer County Enhancement Project presentation. The next meeting will be Thursday, August 7, 2006 in Berthoud. Trustee Wakeman added that Trustee Cozad did a good job representing the Town at the meeting.

CONSENT AGENDA

Approval of Final List of Bills for July 12, 2006 and Approval of Minutes for June 28, 2006

Trustee Wakeman complimented staff for fulfilling the Board's request to providing a List of Bills that has minimal changes, if any, on the night of the meeting, so it matches the List of Bills provided in the Board packets.

Motion to approve the Final List of Bills for July 12, 2006 and the Minutes for June 28, 2006 was made by Mayor Pro Tem Lichtfuss, seconded by Trustee Cozad.

Vote: All in favor none opposed. Motion carried

ACTION AGENDA

Animal Variance Request by Candice White

Chief Burack stated that Candice White and Ian Eldredge are applying for a variance to own more than three dogs, referencing Section 7-5-60 (c) and (d) of the Milliken Municipal Code, which states: "The application shall be reviewed by the Board of Trustees at a public hearing... The Board of Trustees may grant a variance if it determines that the granting of such variance would not disturb the neighborhood or create a nuisance." He stated that the application has been before the Planning Commission, and the Planning Commission approved the application to go before the Board for review. Chief Burack also informed the Board that the Police Department is capable of monitoring the issue. He also stated that the comments received from concerned residents were not solicited prior to the Planning Commission's review and approval.

Motion to deny the Animal Variance Request for five animals was made by Mayor Pro Tem Janie Lichtfuss, seconded by Trustee Cozad.

Discussion: Trustee Tokunaga asked if a timeframe could be given to the applicants, and Trustee Wakeman suggested six months to one year to allow for Ms. White to move to a new place of residence. Trustee Cozad asked Town staff if addresses accompanied the opposition letters; Chief Burack said there were not, but staff will improve the letters to include contact information of surrounding property owners. Trustee Cozad then asked if any complaints have been received, and Chief Burack stated no, not while the variance application has been pending.

Ms. White stated she has owned her two dogs for several years and they are her family. She does not have the means to move out right now, but can in six to 12 months. She also informed the Board that she has a list of signatures from her next door neighbors and the neighbors living across from her. Trustee Wakeman stated she is willing to allow a time period to give the applicants time to remedy the situation, as they are coming to the Board in good faith by applying for the variance.

Mayor Measner asked for a vote to deny the original motion.

Trustee Frank moved to approve the variance request, granted for six months, with the condition that no complaints are received or violations issued, both of which must be brought to the Board by the applicant, seconded by Trustee Tokunaga.

Discussion: Trustee Cozad stated that she supports the motion, but wants to ensure the applicant understands that the approval is temporary, and a special circumstance. She does not want to set a precedent for other residents. Mayor Pro Tem Lichtfuss stated she agrees with Trustee Cozad.

Vote: All in favor, none opposed. Motion carried.

Ordinance #542, Carrasco Subdivision, Lots 2-3 Change of Zone

Town Planner Ortiz informed the Board that the applicants seek to rezone Lots 2 and 3 of the Carrasco Subdivision from the current R-1 zoning to R-2, in order to construct a duplex on the lots. The dividing wall of the duplex would be on the current lot line. The lots are located north of Broad Street at the end of the Beulah cul-de-sac. Town Planner Ortiz mentioned a couple concerns voiced by neighbors and the adjacent Ditch Company. Neighbor concerns include increased cars and traffic and related parking issues. The Big Thompson Ditch Company wants to ensure that any construction or planting will not impede the company from maintaining the ditch adjacent to the property.

Planner Ortiz informed the Board that the proposed zoning amendment is consistent with the *Milliken Land Use Code* and the *Milliken Comprehensive Plan*. The application has come before the Planning Commission, and the Planning Commission recommends approval of the rezone request, with the stipulation that the applicant be required to apply for a Site Plan Review Permit prior to issuance of a building permit (per the *Land Use Code*).

Trustee Wakeman asked if there is street parking available. Planner Ortiz stated that parking is limited, but parking is part of the Site Plan Review process. Trustee Cozad asked if there is a plan for more strict covenants, and Planner Ortiz said it can also be part of the Site Plan Review process. Trustee Cozad asked if this application should be part of a public hearing, and Planner Ortiz replied yes, it should be.

Motion to open a public hearing to consider Ordinance #542, Carrasco Subdivision, Lots 2-3 Change of Zone was made by Trustee Cozad, seconded by Mayor Pro Tem Lichtfuss.

Vote: All in favor, none opposed. Motion carried.

PUBLIC HEARING

Ordinance #542, Carrasco Subdivision, Lots 2-3 Change of Zone

Mayor Measner called a recess for the normal meeting at 7:45 p.m. and opened the Public Hearing. She asked if anyone in the audience had any objections to the Carrasco Subdivision, Lots 2-3 Change of Zone application. No one to speak came forth.

Mayor Measner closed the Public Hearing at 7:46 p.m.

Regular Meeting

Mayor Measner resumed the regular meeting at 7:46 p.m.

Motion to approve Ordinance #542, Carrasco Subdivision, Lots 2-3 Change of Zone, with the condition that the applicant applies for a Site Plan Review, was made by Trustee Cozad, seconded by Mayor Pro Tem Lichtfuss.

Vote: All in favor, none opposed. Motion carried.

Resolution 06-13, Approving Platte Sand and Gravel PS&G) Use by Special Review

Trustee Cozad stepped down due to conflict of interest.

Planner Ortiz informed the Board that the concerns the Board had at previous meetings have been addressed. These include concerns over PS&G's good standing with Weld County; whether or not PS&G posted adequate collateral; and staff's ability to adequately monitor PS&G's compliance with the Town's conditions. She informed the Board that the applicant has worked with Weld County to provide acceptable collateral for road maintenance and paving improvements, in the amount of \$911,000; and they have posted the \$1,123,000 bond to guarantee the reclamation of the property with the Colorado Division of Minerals and Geology.

Planner Ortiz listed the efforts made by PS&G to ensure compliance with the Town. They include:

- PS&G participated in two mediation sessions with its neighbors to attempt to resolve their concerns and has committed to give an annual presentation to the Milliken Planning Commission to update the Town and public about the operation (including, but not limited to neighborhood concerns, annual production, noise emissions and reclamation).
- The duration and intensity of the hauling operation have significant negative impacts on the surrounding neighborhood.
- PS&G met with Weld County School District RE-1 representatives and agreed to work with Weld County to try to reduce the posted speed limit on Weld County Road 38 and to post signs near the school bus stop and on the site to inform drivers about the school bus route and school bus stops on the haul route.
- PS&G is working with Weld County Public Works Department to implement a weed management plan.
- Adjacent property owners Stanley and Mary Odenbaugh and PS&G are in agreement that they do not want the proposed berm constructed.

- PS&G has installed white noise back up beepers, and has committed to work with Engineering Dynamics, Inc. to site and orient the batch plants in a manner that minimizes noise emissions leaving the site.
- PS&G has committed to submit a quarterly report documenting the results of quarterly noise emission monitoring and the noise study shall be conducted by an independent, Town-approved Acoustical Engineer.
- The noise emissions from the batch plants cannot exceed 55 decibels during daylight hours and 50 decibels in the evening at the property line.
- PS&G must obtain the Town's approval of a Site Plan for the batch plants prior to the issuance of building permits (which will include, but not be limited to proof of compliance with Milliken's architectural, landscaping and buffering standards) (refer to the development standards attached hereto for details).
- PS&G has agreed to pay for quarterly inspections of the operation that will be performed by a Town-approved inspector (such inspector shall contract directly with the Town and shall be reimbursed by Platte Sand and Gravel within 60 days of receipt of invoice with the amount not to exceed \$3,500 annually).

Trustee Tokunaga asked about the \$3,500 reimbursement for monthly inspections to be conducted by the Town. He voiced concern that the batch plant project will be here for another 50 years or so. Planner Ortiz stated that the applicant will have to come before the Planning Commission annually for review. Also, an escalation clause can be added to the Resolution, if need be. She also stated that the estimated nine hours to complete the inspection is sufficient, and PS&G was not comfortable with an open-ended amount to cover inspection costs.

Attorney Fickel confirmed the need to establish a realistic cap for the inspection fees. He stated that the applicant can apply for a Site Plan Review to address any issues that may come up or that are not resolved. He stated that the Town can only do so much to buffer industrial operations. Conditions at the batch plant can be reviewed in the future to make sure the issues that are relevant now are relevant then.

Motion to approve Resolution 06-13, Platte Sand and Gravel Use by Special Review, with the option to be reviewed annually and to reconsider any modifications based on the Planning Commission's recommendations, made by Mayor Pro Tem Janie Lichtfuss, seconded by Trustee Tokunaga.

Vote: All in favor none opposed, with a vote of six (6) to zero (0). Motion carried.

Resolution 06-15 to Set Public Hearing Date for Weld County Road 46 Annexation Petition

Planner Ortiz asked the Board if they would override the previous Resolution setting the public hearing date for the Purvis Annexation, to comply with State Statute date requirements. The previous resolution set the date for August 16, 2006, which is not a Town Board meeting night.

Motion to approve Resolution 06-15 to Set Public Hearing Date for Weld County Road 46 Annexation Petition for Wednesday, August 23, 2006, was made by Trustee Cozad, and seconded by Trustee Wakeman.

Discussion: Planner Ortiz added that both the Purvis Annexation and Weld County Road 46 should be set for this date, and asked the Board to include both annexations in the resolution.

Trustee Cozad **amended the motion** to include both Purvis Annexation and Weld County Road 46 on Resolution 06-15. Mayor Pro Tem Lichtfuss seconded the amended motion.

Vote: All in favor none opposed. Motion carried.

Additional Discussion:

Trustee Wakeman proposed the idea to allow public access to the Town logo, in terms of merchandise to promote pride in Milliken. She suggested putting the logo on items such as penants, banners, pins, etc., and then selling them or offering them for free. Co-interim Town Administrator and Public Works Director Mike Woodruff will research the idea.

Trustee Cozad mentioned receiving a phone call from a citizen concerned with how the Board is conducting Work Sessions. She stated that she encouraged this individual to attend meetings, as they are open to the public. She also informed the Board that she told the citizen that the Board was not taking any action on items in the Work Session. She also stated that staff is working on getting the website back up to make information readily available to the public. Attorney Fickel commended Trustee Cozad for handling the citizen's concerns with professionalism, and that he received the same concerns from this citizen in writing, and has responded to the concerns. He also reminded the Board to refer any concerns to him.

Attorney Fickel spoke of avian flu concerns and the necessity of the Town to implement an emergency plan to ensure order if a crisis were to happen. He reminded them to take a look at the memo he included in their packets, which provides information he obtained from a meeting with Larimer County.

Adjournment

Mayor Measner adjourned the meeting at 8:20 p.m. as there was no further business.

Kari Redman-Gutierrez, Town Clerk

Approved by the Board of Trustees

Linda L. Measner, Mayor